

INTRODUCED: 02/29/2016

REFERRED TO: Metropolitan and Economic Development Committee

SPONSOR: Councillor Kreider

DIGEST: an inducement resolution for AHEPA Affordable Housing Management Company, Inc. and Hellenic Senior Living of Indianapolis, LLC for the issuance of economic development revenue bonds in an approximate principal amount of \$16,500,000 to provide a portion of the cost for the acquisition, design, construction and equipping of a 126-unit assisted living multi-family housing facility at 8801 Shelby Street (District 23)

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SOURCE:

Initiated by: Economic Development Commission

Drafted by: James Crawford, esq., Bond Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: \_\_\_\_\_ Date: February 25, 2016

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CITY-COUNTY SPECIAL RESOLUTION NO. \_\_\_\_\_, 2016

A SPECIAL RESOLUTION approving and authorizing certain actions and proceedings with respect to certain proposed economic development revenue bonds.

WHEREAS, Indiana Code Title 36, Article 7, Chapters 11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, the City of Indianapolis, Indiana (the "City"), is authorized to issue revenue bonds for the purpose of financing, reimbursing or refinancing the costs of acquisition, construction, renovation, installation and equipping of economic development facilities in order to foster diversification of economic development, creation or retention of opportunities for gainful employment and affordable housing in or near the City; and

WHEREAS, AHEPA Affordable Housing Management Company, Inc., and Hellenic Senior Living of Indianapolis, LLC, one or more subsidiaries or affiliates thereof, and/or one or more entities in which any of the foregoing entities is a member, whether such entity is currently in existence or is to be created following the date hereof (collectively, the "Company"), in cooperation with the City, desires to finance a project within the City, including all or any portion of the acquisition, design, construction and equipping of a 125-unit assisted living multi-family housing facility, together with functionally related and subordinate facilities, for low and moderate income seniors, located at 8601 Shelby Street, in Indianapolis, Indiana, in Council District 23 of the City-County Council of the City of Indianapolis and of Marion County, Indiana (the "City-County Council") (the "Project"); and

WHEREAS, the Company has advised the Indianapolis Economic Development Commission (the "Commission") and the City concerning the Project, and has requested that the City issue, pursuant to the Act, one or more series of its taxable or tax-exempt City of Indianapolis, Indiana, revenue bonds (with such further or different series designation as may be necessary, desirable or appropriate, including such series designation to indicate the year in which the bonds are issued) (the "Bonds") in the approximate aggregate principal amount of Sixteen Million Five Hundred Thousand Dollars (\$16,500,000), for the purpose of providing funds for paying all or part of the costs of the Project by making a portion of the

proceeds of such Bonds available to the Company and paying all incidental expenses in connection with and on account of the issuance of the Bonds; and

WHEREAS, the Commission has studied the Project and the proposed financing of the Project and its effects on the health and general welfare of the City and its citizens; and

WHEREAS, the completion of the Project will result in the diversification of industry, the creation and retention of jobs, the creation and retention of business opportunities in the City, the creation and retention of affordable housing in the City, and will be of public benefit to the health, safety and general welfare of the City and its citizens; and

WHEREAS, pursuant to and in accordance with the Act, the City desires to provide funds necessary to finance all or a portion of the Project by issuing the Bonds; and

WHEREAS, the diversification of industry and creation of job opportunities (approximately 48 full-time equivalent jobs) to be achieved by the acquisition, design, construction and equipping of the Project will be of public benefit to the health, safety and general welfare of the City and its citizens; and

WHEREAS, it is tentatively found that the acquisition, design, construction and equipping of the Project will not have an adverse competitive effect on any similar facility already constructed or operating near or in Indianapolis, Indiana; and

WHEREAS, the Commission approved a report (the "EDC Report") and adopted an inducement resolution (the "EDC Inducement Resolution") which EDC Report and EDC Inducement Resolution have been forwarded by the Commission to this City-County Council making findings that the financing of the Project complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and welfare of the City, and that the Project will not have an adverse competitive effect or impact on any similar facility already constructed or operating in the same market area or in or about Marion County, Indiana; and

WHEREAS, based upon the EDC Report and the EDC Inducement Resolution, this City-County Council hereby finds and determines that the funding preliminarily approved by the Economic Development Commission for all or a portion of the Project will be of benefit to the health and general welfare of the citizens of the City, complies with the provisions of the Act and the amount necessary to finance all or a portion of the costs of the Project, together with incidental expenses incurred in connection therewith, will require the issuance, sale and delivery of one or more series of economic development revenue bonds in an approximate aggregate combined principal amount of Sixteen Million Five Hundred Thousand Dollars (\$16,500,000); and

WHEREAS, this City-County Council desires to declare its intent to reimburse the costs of the Project pursuant to Treas. Reg. §1.150-2 and Indiana Code §5-1-14-6(c); now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. After considering the evidence presented and findings of fact set forth in the EDC Report, this City-County Council hereby finds, determines, ratifies and confirms that the financing of the economic development facilities consisting of the Project, the issuance and sale of the Bonds, and the use of the net proceeds thereof by the City and/or the Company to finance all or a portion of the Project will: (i) result in the diversification of industry, the creation or retention of business opportunities, the creation or retention of opportunities for gainful employment and the creation of affordable housing within the jurisdiction of the City; (ii) serve a public purpose, and will be of benefit to the health and general welfare of the City; (iii) comply with the purposes and provisions of the Act and it is in the public interest that the City take such lawful action as determined to be necessary or desirable to encourage the diversification of industry, the creation or retention of business opportunities, the creation or retention of opportunities for gainful employment and the creation of affordable housing within the jurisdiction of the City; and (iv) not have a material adverse competitive effect on any similar facilities already constructed or operating in or near Marion County, Indiana. The findings of fact set forth in the EDC Report and this paragraph are

based upon evidence and testimony presented to the Commission at its meeting on February 10, 2016, that the proceeds of the Bonds will be used for the Project and costs of issuance for the Bonds.

SECTION 2. This City-County Council hereby finds and determines that the issuance and sale of economic development revenue bonds in an approximate principal of \$16,500,000 of the City under the Act for the lending of the proceeds of the revenue bonds to the Company for the purpose of financing a portion of the cost of the acquisition, construction and equipping of the Project will serve the public purposes referred to above, in accordance with the Act.

SECTION 3. In order to induce the Company to proceed with the acquisition, construction and equipping of the Project, this City-County Council hereby finds and determines that (i) it will take or cause to be taken such actions pursuant to the Act as may be required to implement the aforesaid financing, or as it may deem appropriate in pursuance thereof; provided that (a) all of the foregoing shall be mutually acceptable to the City and the Company and (b) subject to the further caveat that this inducement resolution expires on March 1, 2017, unless such bonds have been issued or an Ordinance authorizing the issuance of such bonds has been adopted by this City-County Council of the City prior to the aforesaid date or unless, upon a showing of good cause by the Company, the City, by official action, extends the term of the inducement resolution; and (ii) it will adopt such resolutions and authorize the execution and delivery of such instruments and the taking of such action as may be necessary and advisable for the authorization, issuance and sale of said economic development revenue bonds provided that at the time of the proposed issuance of such bonds the inducement resolution is still in effect; and (iii) it will use its best efforts to assist the Company in procuring the issuance of additional economic development revenue bonds, if such additional bonds become necessary for refunding or refinancing the outstanding principal amount of the economic development revenue bonds, for completion of the Project and for additions to the Project, including the costs of issuing additional bonds (provided that the financing of such addition or additions to the Project is found to have a public purpose (as defined in the Act) at the time of the authorization of such additional bonds), and that the aforementioned purposes comply with the provisions of the Act.

SECTION 4. All costs of the Project incurred after the date permitted by applicable federal tax and state laws, including reimbursement or repayment to the Company of moneys expended by the Company for application fees, planning, engineering, a portion of the interest paid during acquisition, construction and equipping of the Project, underwriting expenses, attorney and bond counsel fees, and acquisition, design, construction and equipping of the Project will be permitted to be included as part of the bond issue to finance the Project, and the City will lend the proceeds from the sale of the bonds to the Company for the same purposes. Also, certain indirect expenses, including but not limited to, planning, architectural work and engineering incurred prior to this inducement resolution will be permitted to be included as part of the bond issue to finance the Project. This resolution shall constitute "official action" for purposes of compliance pursuant to Treas. Reg. §1.150-2 and IC 5-1-14-6(c) requiring governmental action as authorization for future reimbursement from the proceeds of bonds.

SECTION 5. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

The foregoing was passed by the City-County Council this \_\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_ p.m.

ATTEST:

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Maggie A. Lewis  
President, City-County Council

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NaTrina DeBow  
Clerk, City-County Council

Presented by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2016, at 10:00 a.m.

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NaTrina DeBow  
Clerk, City-County Council

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Joseph H. Hogsett, Mayor